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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/719,727

11/20/2003

Russell B. Thompson

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EXAMINER

ANDERSON, MICHAEL J

ART UNIT

PAPER NUMBER

3767

MAIL DATE

DELIVERY MODE

10/03/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/719,727	<b>Applicant(s)</b> THOMPSON ET AL.	
	<b>Examiner</b> MICHAEL J. ANDERSON	<b>Art Unit</b> 3767	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 November 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8-14 and 16-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 8-14 and 16-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

The application has been forwarded to me by the 3700 SPRE Shop (via SPRE Henry C. Yuen) to construe the petitions filed 4/21/08 as a request for reconsideration. After an interview on 8/20/2008 and upon further review and consideration, a new non-final Office action is prepared with new grounds of rejections making the need to more clearly explain the previous rejections with more specific reference numerals and prior art text locations unnecessary.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 8 –12 and 16-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Jackowski (US patent No. 4,920,980) (Jackowski).

With regard to claim 8, Jackowski discloses (figures 1-6) a device, comprising: a main body portion (figure 1, 10) defining a proximal end and a distal end and including a malleable portion (40 and/or 10, column 4, line 60) fixedly positioned between the proximal and distal ends; a deflectable portion (12, 28) extending distally (figures 1 and 2) from the distal end of the main body portion (10) and deflectable relative to the main body portion (figure 2); a steering mechanism (16), operably connected to the

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deflectable portion, that bends the deflectable portion relative to the main body portion (column 3, lines 60-64); and at least one operative element (18) carried by the deflectable portion.

With regard to claim 9, Jackowski discloses a device as claimed in claim 8, and further discloses wherein the main body portion (10) comprises a catheter body (column 3, line 44).

With regard to claim 10, Jackowski discloses a device as claimed in claim 8, and further discloses wherein the deflectable portion comprises a steering spring (26).

With regard to claim 11, Jackowski discloses a device as claimed in claim 8, and further discloses wherein the deflectable portion deflects in at least two directions (column 2, lines 17, 42; column 3, lines 42-46; column 5, line 15; simply rotate the device for any direction deflection).

With regard to claims 12, Jackowski discloses a device as claimed in claim 8, and further discloses wherein the deflectable portion deflects in at least four directions (column 2, lines 17, 42; column 3, lines 42-46; column 5, line 15; simply rotate the device for any direction deflection).

With regard to claims 16, Jackowski discloses a device as claimed in claim 8, and further discloses wherein the steering mechanism comprises at least one steering wire (16) secured within the deflectable portion and movable relative to the main body portion (10).

With regard to claims 17, Jackowski discloses a device as claimed in claim 16, and further discloses wherein the steering mechanism further comprises a handle (30

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and 40) connected to the proximal end of the main body portion (10) and to the at least one steering wire (16, figure 3).

With regard to claims 18, Jackowski discloses a device as claimed in claim 8, and further discloses wherein the deflectable portion (12) is more flexible than the main body portion (10) (column 4, line 60).

With regard to claims 19, Jackowski discloses a device as claimed in claim 8, and further discloses wherein the malleable portion (10 and/or 40) is not part of the steering mechanism.

With regard to claims 20, Jackowski discloses a device as claimed in claim 16, and further discloses wherein the malleable portion (10 and/or 40) is not part of the at least one steering wire (16).

With regard to claims 13-14 Jackowski discloses the catheter device as claimed in claim 8 and further discloses wherein the at least one operative element comprises electrodes (18 and 34, column 5 lines 28-29).

With regard to claims 21, Jackowski disclose (as for claim 8 above) a catheter, comprising: a tubular catheter body (column 3, lines 33-34) including a tubular malleable portion (10 and/or 40) and a distal portion (12) that is distal of the tubular malleable portion; a steering spring (26) mounted within the tubular distal portion; at least one steering wire (16) that extends through the tubular malleable portion (10 and/or 40) and is connected to the steering spring (26); and at least one electrode (18) carried by the distal portion of the tubular catheter body.

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With regard to claims 22, Jackowski discloses a catheter as claimed in claim 21, and further disclose wherein the distal portion is more flexible than the tubular malleable portion (column 4, line 60).

With regard to claims 23, Jackowski discloses a catheter as claimed in claim 21, and further disclose wherein the at least one electrode comprises a plurality of spaced electrodes (18 and 34, column 5 lines 28-29).

With regard to claims 24, Jackowski discloses a catheter as claimed in claim 21, and further discloses wherein the steering spring (26) defines first and second sides (distal and proximal ends in figure 2); the at least one steering wire (16) comprises first and second steering wires (before and after 26); the first steering wire is connected to the first side of the steering spring; and the second steering wire is connected to the second side of the steering spring.

With regard to claims 25, Jackowski discloses a catheter as claimed in claim 21, and further disclose wherein the at least one steering wire (16) is secured directly to the steering spring (26).

### ***Response to Amendment***

The present communication responds to the Amendment of 11/05/2007. By this communication, the specification and claims 8, 11, 12 and 16 were amended, claim 15 was canceled and new claims 18-25 were added. The amendments did not add new matter. Claims 8-14 and 16-25 are pending. The rejection(s) are as stated.

***Response to Arguments***

Applicant's arguments filed 11/5/2007, 3/19/2008, 5/2/2008 and the interview of 8/20/2008 have been fully considered but they are not persuasive. However, upon review and reconsideration, a new non-final Office action is prepared to clearly explain the rejection with additional reference numerals as requested in the petition of 4/21/2008. Applicant's arguments with respect to claim 1-14 and 16-25 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL J. ANDERSON whose telephone number is (571)272-2764. The examiner can normally be reached on M-F 6:30 am to 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin C. Sirmons can be reached on (571) 272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael J Anderson/  
Examiner  
Art Unit 3767

MJA  
9/19/2008  
/Kevin C. Sirmons/  
Supervisory Patent Examiner, Art Unit 3767